

## UNITED STATES DISTRICT COURT

for the

Eastern District of Missouri



Northern Division

Richard Marshall Lagani II

Case No. \_\_\_\_\_

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

City of Hannibal Missouri,  
City of Hannibal Police Department

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

## COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

## NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Richard Marshall Lagani II		
Address	1962 Safari Trail		
	Eagan	MN	55122
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Dakota		
Telephone Number	502-345-6330		
E-Mail Address	marshall.lagani@gmail.com		

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

## Defendant No. 1

Name	City of Hannibal, Missouri		
Job or Title (if known)			
Address	320 Broadway		
	Hannibal	MO	63401
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County			
Telephone Number	573-221-0111		
E-Mail Address (if known)			
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

## Defendant No. 2

Name	City of Hannibal Police Department		
Job or Title (if known)			
Address	777 Broadway		
	Hannibal	MO	63401
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County			
Telephone Number	573-221-0987		
E-Mail Address (if known)			
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

## Defendant No. 3

Name \_\_\_\_\_

Job or Title *(if known)* \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

County \_\_\_\_\_

Telephone Number \_\_\_\_\_

E-Mail Address *(if known)* \_\_\_\_\_☐

Individual capacity

☐

Official capacity

## Defendant No. 4

Name \_\_\_\_\_

Job or Title *(if known)* \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

County \_\_\_\_\_

Telephone Number \_\_\_\_\_

E-Mail Address *(if known)* \_\_\_\_\_☐

Individual capacity

☐

Official capacity

**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against *(check all that apply)*:

☐Federal officials (a *Bivens* claim)☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Plaintiff claims that he was wrongfully accused of a criminal violation due to an inadequate determination of probable cause by these Defendants. Plaintiff believes that his rights under the Fourth, Fifth, and Fourteenth Amendments were violated. Plaintiff also believes that the Defendant's actions constitute a violation of spousal privilege, specifically as defined by RMS Chapter 546, Section 260.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?



- D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.
- Defendants brought a charge against the Plaintiff for an alleged violation of City of Hannibal Municipal Ordinance 17-88. This charge required Plaintiff to appear for an out of state trial or provide evidence proving his innocence. Plaintiff is seeking the opportunity to demonstrate that the actions of the City of Hannibal and its Police Department were inappropriate and lacked probable cause, thereby exposing Plaintiff to the violation of several of his rights under the Constitution.

### III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?  
The events took place in Hannibal, Missouri and Plaintiff's home in Eagan, Minnesota, largely via US Mail correspondence and telephone conversations between these locations.
- B. What date and approximate time did the events giving rise to your claim(s) occur?  
The events occurred between August 9, 2020 and January 28, 2021.
- C. What are the facts underlying your claim(s)? (*For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)  
Please see Appendix 1, included with this form.

#### **IV. Injuries**

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Plaintiff was not physically injured as a result of these incidents.

Plaintiff suffered personal inconvenience, emotional duress, and real economic injury.

Plaintiff estimates approximately \$614 in economic damages as a result of these incidents. This estimate is based on a hotel charge of \$126.91 and the approximately 870 miles Plaintiff personally drove to appear in court on January 28, 2021 (valued at 56 cents per mile in line with the IRS estimates).

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#### **V. Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Plaintiff is seeking the following relief:

1. An injunction from the Court that will deem the Red Light Enforcement Program currently employed by the Defendant to be in violation of the United States Constitution and prohibit further use of the program.
  2. An award of \$1842 in compensatory damages for Plaintiff's economic injuries. This is an estimate of treble damages based on the actually incurred damages of \$614, outlined above.
  3. An award of the total value of Plaintiff's court costs and legal fees, currently totaling \$402, but expected to increase over time.
  4. Any other relief to which the Plaintiff may be entitled under the law.
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**VI. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 01/27/2022

Signature of Plaintiff

Printed Name of Plaintiff

Richard Marshall Lagani II

**B. For Attorneys**

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address



**Pro Se Form 15 Complaint for Violation of Civil Rights (Non-Prisoner)**

**APPENDIX 1**

1. Bethany Gibson Lagani is the Plaintiff's spouse. On August 9, 2020, Mrs. Lagani was photographed driving a 2019 Volkswagen Atlas (owned by the Plaintiff) as part of the City of Hannibal Red Light Photo Enforcement Program.
2. A citation dated September 14, 2020 was issued by the Hannibal Police Department charging Richard Marshall Lagani II with a violation of municipal ordinance 17-88. Signatures of the filing officer (identified as Karen Porter, Badge #15), and the Prosecutor are conspicuously absent.
3. The September 14<sup>th</sup> citation was delivered to Plaintiff via United States Mail. Plaintiff requested the opportunity to appear remotely due to COVID, but was instructed by city officials that remote appearances were not permitted and that he must appear in person for a trial. Plaintiff responded to the citation by requesting a trial, invoking his right to refuse to comment further on the matter. The trial was set for January 28, 2021, after some delays that were presumably due to COVID.
4. Plaintiff prepared a Motion to Dismiss, outlining the impossibility of the City of Hannibal to prove its case and submitted this to the Hannibal Municipal Court prior to January 28, 2021.
5. On January 28, 2021, an attorney for the City of Hannibal indicated that he had obtained "new evidence" and said that the City of Hannibal no longer intended to pursue its case. This Attorney did not specify what "new evidence" had been introduced and addressed the Plaintiff directly. In his remarks, the Attorney indicated that the Plaintiff should have "told us" (presumably the City) that his wife was driving and that they (presumably the City) would reissue the citation to her.
6. Plaintiff responded to say that he had no obligation to provide this information, and asked the attorney for the City of Hannibal to identify himself.
7. The Attorney for the City of Hannibal identified himself as Associate Prosecutor Ethan Matchett, acting under the direction of Prosecutor James Lemon.
8. A citation dated February 1, 2021 was issued by the Hannibal Police Department charging Bethany Gibson Lagani with a violation of municipal ordinance 17-88. Signatures of the filing officer (identified as Karen Porter, Badge #15), and the Prosecutor are conspicuously absent.
9. The February 1<sup>st</sup> citation was delivered to Bethany Gibson Lagani via United States Mail. This citation included an insert offering remote appearance options that were not offered to the Plaintiff. Mrs. Lagani pled guilty to the charge and filed the enclosed paperwork with Hannibal Municipal Court to waive her appearance. The fine was paid in full using an online utility.

These documents are to be filed electronically using the utility provided by the Court. A copy of Pro Se Form 15 and its Appendix are being sent to the following via United States Mail.

City of Hannibal, Missouri

ATTN: HIGHEST EXECUTIVE OFFICER OR AGENT

320 Broadway

Hannibal, MO 60341

City of Hannibal Police Department

ATTN: HIGHEST EXECUTIVE OFFICER OR AGENT

777 Broadway

Hannibal, MO 60341